

MINUTES

NEVADA STATE BOARD OF OPTOMETRY REGULAR MEETING

January 20th, 2006
University of Nevada, Las Vegas
Meeting Room A, Thomas & Mack Center
4505 Maryland Parkway
Las Vegas, Nevada 89154

Dr. Alleman asked for public comment. There was no public comment.

A regular meeting of the Nevada Board of Optometry was called to order by Board President, Kurt G. Alleman, O.D., at 10:00 a.m. on January 20th, 2006, in Meeting Room A, Thomas & Mack Center, University of Nevada, Las Vegas, 4505 Maryland Parkway, Las Vegas, Nevada.

Identifying themselves as present were:

Kurt G. Alleman, O.D., Board President
Brad C. Stewart, O.D., Board Member
Jack Sutton, O.D., Board Member
George Bean, Board Member
Judi Kennedy, Executive Director
Dianna Hegeduis, Chief Deputy Attorney General

Also present were:

Wilfred J. Leonard
Conrad Lochner, O.D.
S. Craig Stone II, Esq.
Jennifer Jensen, O.D.
Rodney Murray, O.D.
Douglas Orton, O.D.

The minutes of the Board's November 16th, 2005, meeting were presented for approval. Dr. Sutton moved the minutes be approved as drafted. Mr. Bean seconded the motion. The vote was unanimous.

Agenda Item 2. Noting the presence of Dr. Jennifer Jensen, Dr. Alleman directed

the Board's attention to Tab C under the item. Dr. Alleman, noted income figures had been redacted from the documents produced by Dr. Jensen. Dr. Alleman asked the members if their review of the documents raised any issues of concern relative to statutory compliance in the agreement between Dr. Jensen and Nevada Eye and Ear. The members replied in the negative. Dr. Alleman advised no further action by Dr. Jensen was necessary.

Mr. Stone stated he wished to comment on the Board's request for documents as the request relates to the three doctors he represented, namely, Drs. Jensen, Murray and Orton.

Mr. Stone stated he understands the statutes, but asserted the Board's request for information had been inconsistently applied. Dr. Stewart asked if he had an example of inconsistent application. Mr. Stone offered no specific instance. There ensued a lengthy discussion between Mr. Stone and the Board members. During the discussion, the Board outlined the impetus for the inquiry and request for documents, citing among other elements, the Board's legislatively mandated obligation to enforce Chapter 636 of the Nevada Revised Statutes. Dr. Stewart asked Ms. Hegeduis if the Board had the authority to request copies of tax returns in order to ensure compliance with the statutes. Ms. Hegeduis responded, citing the legislative history of the statutes, stating the statutes are not vague or ambiguous, and that while the nature of business relationships may evolve over time, the Board has the authority.

Mr. Stone stated he felt the Board's inquiry had been overreaching and suggested that in the future the Board an inquiry from the Board should be more narrowly worded. Dr. Alleman stated, if in the future, a situation arose which required further inquiry from the Board, the Board would take the steps deemed necessary to ensure compliance with the statutes. Dr. Sutton interjected the spirit of the inquiry had been corrective, not punitive, and that the Board, through its inquiry had found numerous situations where optometrists

were not in compliance with the statutes. Dr. Sutton continued, saying those optometrists who had been found to be in violation had revised agreements to bring them in compliance. Dr. Sutton concluded, stating he felt Mr. Stone's expressed concerns had been addressed.

The Board, after reviewing the documents most recently produced by Dr. Jennifer Jensen, directed Ms. Kennedy to send a letter to Dr. Jensen, through her attorney, advising no further action was necessary.

Agenda Item 2. Tab F. There was a brief discussion between the Board, Dr. Murray and Mr. Stone regarding the method of fee collection and payment to Dr. Murray. Dr. Stewart, noting the absence of a written agreement between Dr. Murray and the ophthalmologist with whom he has a business relationship, stated it was the Board's position that it is prudent to have a written agreement. The Board, after reviewing the documents most recently produced by Dr. Rodney Murray, directed Ms. Kennedy to send a letter to Dr. Murray, through his attorney, advising no further action was necessary.

Agenda Item 2. Tab G. The Board, after reviewing the documents most recently produced by Dr. Douglas Orton, directed Ms. Kennedy to send a letter to Dr. Orton, through his attorney, advising no further action was necessary.

Agenda Item 2. Tab A. The Board, after reviewing the documents most recently produced by Dr. Eric Brooker, directed Ms. Kennedy to send a letter to Dr. Brooker, through his attorney, advising no further action was necessary.

Agenda Item 2. Tab B. Ms. Kennedy advised the Board that although there had been a response from Dr. Devries, it was not received in time to be placed on the agenda. The Board determined the matter should be held over for the next regular meeting.

Agenda Item 2. Tab D. The Board, after reviewing the documents most recently produced by Dr. Craig L. Kuntz, directed Ms. Kennedy to send a letter to Dr. Kuntz,

through his attorney, advising no further action was necessary.

Agenda Item 2. Tab E. The Board, after reviewing the documents most recently produced by Dr. Aaron Mancuso, directed Ms. Kennedy to send a letter to Dr. Mancuso, through his attorney, advising no further action was necessary.

Agenda Item 2. Tab H. The Board, after reviewing the documents most recently produced by Dr. Jennifer Peterson, directed Ms. Kennedy to send a letter to Dr. Peterson, through her attorney, advising no further action was necessary.

Agenda Item 2. Tab I. The Board, after reviewing the documents most recently produced by Dr. Isaac Singleton, directed Ms. Kennedy to send a letter to Dr. Singleton, advising no further action was necessary

Agenda Item 6. The complaints of Helen and Wilfred Leonard vs. Conrad Lochner III, O.D. Dr. Alleman outlined, for the Board, the allegations of the complaints of Mr. and Mrs. Leonard, which included unethical conduct and misrepresentation in advertising. Noting the presence of Dr. Lochner and Mr. Leonard, Dr. Alleman asked if they wished to make statements. Both replied in the affirmative.

Dr. Lochner and Mr. Leonard were placed under oath by Chief Deputy Attorney General, Dianna Hegeduis.

Mr. Leonard stated he and Mrs. Leonard had seen a Tricare sign at the location of Dr. Lochner's practice at Nellis Air Force Base, that he and Mrs. Leonard had Tricare coverage, he and Mrs. Leonard were in need of eye examinations, and they had made an appointment with Dr. Lochner. Mr. Leonard continued, stating he believed Dr. Lochner had not been forthcoming regarding the scope of the procedures to be followed during the eye examinations, and the billing and reimbursement from Medicare and/or Tricare. Mr. Leonard expressed his dissatisfaction with the amount of money owed by he and Mrs.

Leonard after both insurances had been billed.

Dr. Alleman asked if Dr. Lochner required patients to sign a form indicating they are aware certain procedures may not be covered by Medicare. Dr. Lochner responded saying his office had only recently started accepting Medicare, that he had been unaware of the requirement of such a form at the time of the Leonards' visit, but that the form was now used by his office.

There followed a discussion between the Board, Dr. Lochner and Mr. Leonard regarding procedures followed by Dr. Lochner, fees charged by Dr. Lochner, and the medical conditions of Mr. and Mrs. Leonard as they related to the care received from Dr. Lochner. At the conclusion of the discussion Dr. Alleman stated it appeared the eye examinations given the Leonards by Dr. Lochner had been complete and sufficient. Dr. Alleman advised Mr. Leonard the Board has no jurisdiction over fees charged or other monetary matters. Mr. Leonard reiterated his concerns, concluding by saying he felt the situation had been resolved. Dr. Stewart moved the complaints of Mr. and Mrs. Leonard be dismissed based on resolution. Mr. Bean seconded the motion. The vote was unanimous.

The meeting recessed at 11:10 a.m. The meeting reconvened at 11:20 o'clock a.m.

Agenda Item 4. The complaint of Edward Kacik vs. Craig Kuntz, O.D. Neither the complainant nor Dr. Kuntz were present. The Board reviewed the complaint and the response of Dr. Kuntz. The Board found Dr. Kuntz' course of treatment of Mr. Kacik to be warranted and proper, noting Dr. Kuntz is certified to treat glaucoma. Dr. Sutton moved the complaint be dismissed based on lack of merit. Mr. Bean seconded the motion. The vote was unanimous.

Agenda Item 5. The complaint of Marcia Koben vs. Craig Kuntz, O.D. Neither the

complainant nor Dr. Kuntz were present. The Board reviewed the complaint and the response of Dr. Kuntz. The Board found Dr. Kuntz' course of treatment of Ms. Koben to be proper. Dr. Sutton moved the complaint be dismissed based on lack for merit. Dr. Stewart seconded the motion. The vote was unanimous.

Agenda Item 7. The accusation of Judi Kennedy, as Executive Director vs. Amel Y. Afifi, O.D. Ms. Kennedy advised the Board the allegations of the accusation had been disposed of by way of the stipulation entered into in Case No. 05-03. Dr. Sutton moved the accusation be dismissed based on resolution. Mr. Bean seconded the motion. The vote was unanimous.

Agenda Item 8. The Board discussed the December 7th, 2005, correspondence from the Association of Regulatory Board of Optometry [ARBO], and its requests for participation in its upcoming annual convention. At the conclusion of a lengthy discussion Ms. Kennedy was directed to correspond with ARBO and decline participation by the Nevada Board of Optometry. The Board directed Ms. Kennedy to pay the annual dues for membership in ARBO.

Agenda Item 9. Ms. Kennedy advised the Board there had been ongoing problems with the Board's dial-up Internet connection. Ms. Kennedy stated it had been recommended by the Department of Information Technology the Board go to a DSL connection. The Board approved the change.

Dr. Alleman asked for public comment. There was no public comment.

The Board scheduled a regular meeting for Friday, May 5th, 2006, in Reno, Nevada.

Mr. Bean moved the meeting adjourn. Dr. Stewart seconded the motion. The meeting adjourned at 11:52 a.m.

